

MEMO ENDORSED



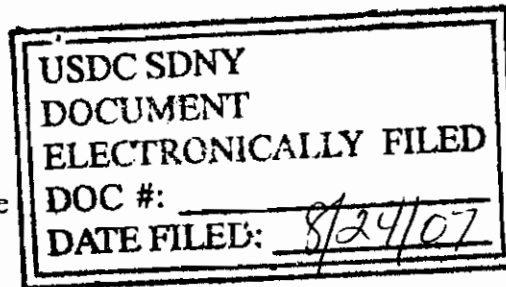
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BY FACSIMILE

The Honorable James C. Francis IV
United States Magistrate Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street - Room 1960
New York, New York 10007-1312



July 24, 2007

Re: Adams, et al, v. City of New York, et al., 05 CV 9484 (KMK) (JCF)

Dear Judge Francis:

I write regarding the above action, which is an RNC case consolidated before Your Honor. Defendants request that pursuant to Rules 37(b)(2) and 41(b) of the Federal Rules of Civil Procedure that the following plaintiffs' claims for emotional distress be dismissed with prejudice: Christina Argyros, Jaie Bosse, Gabriel Cohn, Naimah Fowler, David Geocos, Michael Gindi, Zachary Goldstein, Richard Lovejoy, Sarah Palmer, Jeffrey Parrot, Robert Ponce, Dana Pryor, Ellen Tuzzolo, David Zalk, and Lisa Martin (collectively "Plaintiffs").

Plaintiffs have alleged emotional distress as a result of their arrests and detentions. See Second Amended Complaint at ¶¶ 20, 23, 26, 29, 32, and 35 attached as Ex. A. ("As a result of the foregoing [arrest and detentions], plaintiffs . . . suffered . . . emotional distress and psychological injury [and] great humiliation"). As Your Honor is aware, in the consolidated RNC cases, those plaintiffs who have alleged emotional distress damages have been compelled to: "(1) *identify all* providers who have provided them psychological or psychiatric counseling or treatment, (2) provide *releases* with respect to records maintained by these *providers*, and (3) provide *releases* for all *pharmacies* that have filled prescription drugs used by plaintiffs in connection with any psychological or emotional conditions." See Your Honor's November 16, 2006 Order in Abdell v. City of N.Y. attached as Ex. B. (emphasis added).¹ On April 4, 2007,

¹ As the Court is aware, Abdell is another consolidated RNC action in which Mr. Spiegel represents multiple plaintiffs.


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Your Honor dismissed the emotional distress claims of various Abdell plaintiffs who refused to comply with the Court's order requiring disclosure of documents, releases and information relating to their mental health history. See Your Honor's April 4, 2007 Order in Abdell attached as Ex. C.

Despite their awareness of these orders in a related RNC case, involving the same attorneys of record, Plaintiffs have indicated they will not comply with any order compelling them to provide this discovery. In a letter dated February 9, 2007, Plaintiffs indicated they "have received mental health counseling during the ten years prior to the [the original discovery requests], but decline to provide releases relating thereto." See Plaintiffs' February 9, 2007 letter at pg. 1 attached as Ex. D. Plaintiff Martin similarly declined to provide discovery relating to her mental health history. See id.

Accordingly, Defendants respectfully request that the Court enter an order dismissing Plaintiffs' claims for mental and emotional injuries and damages with prejudice.

Very truly yours,

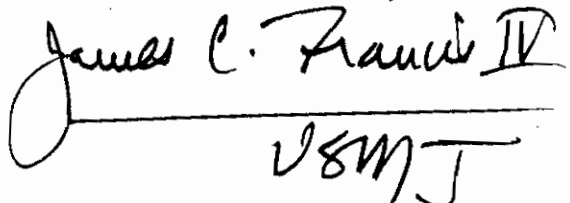

Jeffrey A. Dougherty

cc: Michael L. Spiegel, Esq.
Norman Frederick Best, Esq.

8/24/07

Application granted.

SO ORDERED.


JCF